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Attorneys for Defendant  
BMJ LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

VIRGINIA PEREZ, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

MAID BRIGADE, INC., a Delaware  
Corporation, and BMJ LLC, a California  
Limited Liability Company,

Defendants.

CASE NO. C 07 3473 SI

**DECLARATION OF PATRICK M.  
MACIAS IN SUPPORT OF  
DEFENDANT BMJ LLC'S MOTION  
TO COMPEL ARBITRATION AND TO  
STAY PENDING LITIGATION  
[9 U.S.C. §§3, 4]**

**Date: October 12, 2007**

**Time: 9:00 A.M.**

**Dept.: 10**

**Judge: Hon. Susan Illston**

I, Patrick M. Macias, declare:

1. I am an attorney at law duly licensed to practice before this honorable court.  
I am attorney for Defendant BMJ LLC. I make this declaration from my personal  
knowledge. If called as a witness I am competent to testify.

2. On August 7, 2007, I had a telephone conversation with David S. Harris,  
one of Plaintiff's attorneys, and followed up our conversation with an email

1 communication. The substance of my communication with Mr. David Harris was that our  
2 office would be representing BMJ LLC in this matter, that our client's files indicated that  
3 plaintiff Virginia Perez had signed an employment agreement with our client including a  
4 provision for the arbitration of employment disputes, and that this matter should  
5 accordingly be referred to binding arbitration. A true copy of my August 7 email to Mr.  
6 David Harris, with plaintiff's arbitration agreement as an attachment, is attached as  
7 Exhibit A.

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9 3. On August 9, 2007, in response to a request from Mr. Alan Harris, another  
10 of plaintiff's attorneys, I sent counsel a more complete set of documents plaintiff had  
11 signed in connection with her employment with our client. I renewed my request that  
12 plaintiff agree to stay this action and refer the matter for binding arbitration. A true copy  
13 of my August 9 email (sent at 10:01 am) and attachments is attached as Exhibit B.

14 4. On August 9, 2007, I also had a telephone conversation with Messrs. Alan  
15 Harris and David Zelenski, two of plaintiff's attorneys, after sending my email message.  
16 We discussed my request for a stay and reference to arbitration. Messrs. Harris and  
17 Zelenski referred me to the *Albertsons* case cited in the Memorandum in support of this  
18 motion, and stated their belief that case stands for the proposition that plaintiff's Fair  
19 Labor Standards Act claims except this case from mandatory contractual arbitration. Mr.  
20 Harris stated that his office would be disinclined to stipulate to a stay and reference to  
21 arbitration.

22 5. Following my August 9 telephone conversation with Messrs. Harris and  
23 Zelenski, I read the *Albertsons* case and the *Kuehner* case cited therein. (The *Kuehner*  
24 case is also cited in the accompanying Memorandum.) Upon my review of those cases, I  
25 sent Mr. Harris another email (sent August 9 at 4:16 pm), stating my belief that  
26 *Alberstons* is limited by its own rationale to collective bargaining cases, and that *Kuehner*  
27 supports a stay and reference to arbitration in this case. A true copy of my second  
28

1 August 9 email is attached as Exhibit C. I have not heard further from Mr. Harris  
2 regarding arbitration.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed  
4 this 14th day of August, 2007, at San Rafael, California.

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6 /s/

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Patrick M. Macias  
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